

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**IN RE:
BLUE CROSS BLUE SHIELD
ANTITRUST LITIGATION
(MDL NO. 2406)**

Master File No. 2:13-CV-20000-RDP

**This Document Relates to
Provider Track Cases**

**PROVIDER PLAINTIFFS' MOTION FOR AN ORDER TO SHOW CAUSE
REGARDING UNTIMELY EXCLUSION REQUESTS**

When this Court preliminarily approved the Provider's settlement, it ordered, "Any Class Member who wishes to be excluded from the Settlement Class **SHALL** mail a written notification of their intent to be excluded to the Settlement Notice Administrator ... , postmarked no later than **March 4, 2025.**" Doc. No. 3225 at 51. The Court also ordered the Settlement Notice Administrator to carry out the Notice Plan. *Id.* at 50–51. The Settlement Notice Administrator did so. Doc. No. 3313-1 at 12. Ultimately, the Settlement Notice Administrator received 57 exclusion requests with a postmark date after March 4, and 14 exclusion requests for which there was no legible postmark date and the request arrived after March 4. A list of these requests is attached as Exhibit A.

To be accepted, an untimely request to exclude a class member from a settlement must "meet the 'excusable neglect' standard of Rule [6(b)(1)(B)]." *Grilli v. Metropolitan Life Ins. Co.*, 78 F.3d 1533, 1538 (11th Cir. 1996). This standard's relevant factors are "(1) the danger of prejudice, (2) the length of delay and its potential impact on the proceedings, (3) the reason for the delay, and (4) whether the movant acted in good faith." *Cent. States Grp. v. AIG Global Inv. Corp. (In re HealthSouth Corp. Secs. Litig.)*, 334 F. App'x 248, 253 (11th Cir. 2009) (citing *Walter v. Blue Cross & Blue Shield United of Wis.*, 181 F.3d 1198, 1201 (11th Cir. 1999)).

The Provider Plaintiffs do not know the reason for the delay (or in the case of missing postmarks, whether there was a delay), or whether the parties who filed exclusion requests acted

in good faith. In order to obtain the information necessary for the Court to determine whether the “excusable neglect” standard is met, the Provider Plaintiffs propose that the Court issue an order to show cause why the exclusion requests should not be rejected. The Provider Plaintiffs’ counsel are willing to work with the Settlement Notice Administrator to ensure that the class members at issue receive the order.

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